

Section D

COBRA SUBSCRIBERS

Contents

Section D..... COBRA Subscribers

What is COBRA? D-3

Continuation of Coverage Under TRICARE D-3

Assisting a Terminating Employee D-3

If the Employee Is Not Eligible to Retire D-3

If the Employee Is Eligible to Retire D-3

Required COBRA Notices D-4

Mailing Requirements For All COBRA Notices D-4

Initial COBRA Notice (First Required Notice) D-4

Qualifying Event Notice (Second Required Notice) D-5

18-Month Qualifying Events D-5

Qualifying Secondary Events D-5

29-Month Qualifying Events D-6

36-Month Qualifying Events D-6

COBRA Termination Notification (Third Required Notice) D-6

COBRA Termination Events D-6

COBRA Election Period D-7

45-Day Premium Payment Period D-7

Administrative Fee for Local Subdivisions D-7

Benefit Changes D-7

Open Enrollment D-7

COBRA Rules for the MoneyPlu\$ Medical Spending Account D-8

What is COBRA?

(Consolidated Omnibus Budget Reconciliation Act of 1985)

COBRA is designed to protect only those individuals (called **qualified beneficiaries**) who lose their group health and/or dental insurance due to certain qualifying events outlined in the federal law.

COBRA regulations require that continuation of group insurance coverage be offered to subscribers and dependents who lose their health or dental coverage due to a qualifying event. These qualifying events are listed in the Qualifying Event Notices that address 18-, 29- and 36-month COBRA continuation.

There are federal penalties if COBRA benefits are not offered to an employee who terminates employment and/or a dependent who becomes ineligible.

The following coverage may be continued under COBRA:

- **Health insurance** (all plans offered by EIP except the TRICARE Supplement)
- **State Dental Plan** and **Dental Plus**
- **MoneyPlu\$ Medical Spending Account** (after-tax basis only)

Continuation of Coverage Under TRICARE

To continue coverage under the TRICARE Supplement Plan, the subscriber will remit premiums directly to ASI, administrator for this program, after filing an application.

- The ASI Application for Continuation of Coverage form must be completed.
- A check must be included with the form and forwarded to ASI at the address on the form.
- Subscribers, who are eligible for Medicare based on age, may not continue coverage under the TRICARE Supplement Plan.

Assisting a Terminating Employee

If the Employee Is Not Eligible to Retire

- You must offer the employee and his covered dependents COBRA enrollment information by letter.
- An employee, whose spouse is also a covered employee or retiree, may apply for health, dental and/or Dependent Life* coverage as a dependent through his spouse.

**If the spouse is a retiree, Dependent Life coverage is not available.*

Refer to the Transfers and Terminations section of the manual for additional termination procedures.

If the Employee Is Eligible to Retire

- You must still offer the retiring employee and his covered dependents COBRA enrollment information by letter, even though he is eligible for retiree insurance benefits.

Refer to the Retiree Subscribers section of the manual for procedures for assisting a retiring employee.

Required COBRA Notices

The required COBRA notices are available on the EIP Web site.

Each COBRA notice includes an instruction sheet that summarizes the steps for notification for that particular notice. There are three:

- **Initial COBRA Notice**
- **18-month COBRA Notice**
- **36-month COBRA Notice**

Mailing Requirements For All COBRA Notices

- Address the notice to the covered employee and to the spouse for dependents (if spouse and/or dependents are covered).
- The first and last names of the covered employee, covered spouse and the covered dependent children **MUST** be listed in the body of the notification letter. The phrase "covered dependents" may be used for dependent children **ONLY** in the address and salutation portions of the letter.
- Send it to the last known address.
- One notice to the home satisfies the requirement if the spouse and all dependents live at the same address as the employee.
- Send a separate notice to the spouse and/or dependents if they live at a separate address from the employee.
- Send first class mail.
- **Hand delivery to the employee is not notice to a covered spouse or dependent.** A separate notice should be mailed to the spouse and dependents if hand delivery is used for an employee.

Initial COBRA Notice (First Required Notice)

Notice of the right to purchase temporary extension of group health coverage when coverage is lost due to a qualifying event

The intent of the initial notification is to provide a broad summary of the COBRA law, procedures and obligations to all covered individuals and outline notification responsibilities.

- Send an Initial COBRA Notice, when coverage begins, to:
 - A new employee who elects health or dental coverage for himself and/or his dependents (exception: TRICARE Supplement)
 - A newly covered spouse or a dependent child of an covered employee, due to a special eligibility situation
 - Anyone newly covered at open enrollment
- Send the initial, written notice to the newly covered employee, spouse or dependent.
 - Notification is **NOT** required if the employee and his dependents do **NOT** enroll in a health or dental plan. Notification is **NOT** required for the TRICARE Supplement Plan.
 - After distribution, place a copy of this letter in your employee's file.
- If this notice has not been provided to your covered employees and dependents, an initial letter should be mailed immediately.

It is your responsibility to:

- Check the employee file for coverage. If the employee is covered:
 - Check the enrollment for dependents.
 - If the employee has single coverage, address the notification to the employee only.
 - If the employee has family coverage, address the notification to the employee and spouse by name (John and Mary Doe).
 - If no spouse is named, address the notification to John Doe and covered dependents.

Qualifying Event Notice (Second Required Notice)

Notice to qualified beneficiaries of their right to elect COBRA coverage upon occurrence of a qualifying event

The individual must be covered on the day before the qualifying event by the group health and/or dental plan to continue coverage under COBRA. Each individual (including dependents) who was covered under the plan is a qualified beneficiary and has independent election rights.

After a qualifying event has occurred, individuals should be notified of their rights to continue health/dental coverage.

18-Month Qualifying Events

- **Voluntary Terminations** (quits, retires, transfers)
- **Involuntary Termination** (gross misconduct does not constitute a qualifying event)
- **Reduction of Hours** (full-time to part-time, strikes, layoffs, leave of absence not under FMLA, military call-up/activation)

Qualifying Secondary Events

A qualifying secondary event may occur within the 18- or 29-month coverage (i.e., divorce, ineligible dependent). In such a case, the 18- or 29-month period is extended to 36 months, but only for those individuals who were qualified beneficiaries under the plan as of the first qualifying event and were covered under the plan at the time of the second qualifying event.

No qualifying event can increase the maximum coverage period more than 36 months from the date of the first qualifying event.

Secondary events are:

- **Death of employee** (Doesn't apply to State Health Plan. The SHP rules in this situation are more generous than the COBRA requirements.)
- **Employee becomes entitled to Medicare.** (Doesn't apply to State Health Plan. The SHP rules are more generous than the COBRA requirements.)
- **Divorce/legal separation**
- **Dependent child becomes ineligible:**
 - No longer a full-time student
 - Dependent gets married

Along with the 18-Month Qualifying Event Notification is a Qualifying Event Notification Form:

- The COBRA subscriber may complete this form and return if there has been a secondary event that may extend COBRA coverage.
- The completed form should be returned to EIP (or to the BA, if a local subdivision).

29-Month Qualifying Events

The Omnibus Budget Reconciliation Act of 1989 added a provision to COBRA, which affects the 18-month continuation period. The intent is to provide additional coverage protection for disabled qualified beneficiaries. If a qualified beneficiary is approved for Social Security disability benefits, he is entitled to extend the 18 months of COBRA coverage to 29 months from the date of the qualifying event.

- The Social Security Administration must deem a qualified beneficiary disabled according to Title II or XVI of the Social Security Act.
 - Social Security determines whether a qualified beneficiary was disabled at the time of the qualifying event or at any time during the first 60 days of COBRA continuation coverage.
 - It is the qualified beneficiary's responsibility to obtain the disability determination from the Social Security Administration.
- The extension to 29 months is not limited to the disabled qualified beneficiary. It applies to all qualified beneficiaries.
- It is the qualified beneficiary's responsibility to present the disability determination to the plan administrator within 60 days of the determination and within the 18 months of initial coverage. (Note: It can take several months for a disability determination to be made.).
- **The employer can charge up to 150 percent of the applicable premium during the extended 11-month COBRA period.**
- A qualified beneficiary whose coverage is extended must notify the plan administrator within 30 days if a final determination is made that they are no longer disabled.

36-Month Qualifying Events

- **Legal Separation** (separated spouse entitled to continue coverage)
- **Divorce** (former spouse entitled to continue coverage)
- **Dependent becomes ineligible** (age, loss of full-time student status, etc.)

COBRA Termination Notification (Third Required Notice)

This notification is generated when COBRA continuation requirements have been met and COBRA coverage is ending.

You do not send this notice. EIP sends this required notice directly to the qualified beneficiaries.

- HIPAA requires notification to be sent to all qualified beneficiaries when COBRA coverage ends for whatever reason (non-payment, etc.).
- A Certificate of Coverage is mailed upon termination.
- This notice/letter is sent via first class mail to last known address.

COBRA Termination Events

- The end of the 18, 29 or 36 months of required continuation coverage
- The date on which the employer ceases to provide any group health plan to any employee
- The date on which the premium is not paid in a timely fashion
- The date on which the qualified beneficiary is first covered, after the date of election, under any other group plan (as an employee or otherwise), which does not contain any pre-existing condition limitation for the beneficiary. In this case, documentation of the other group coverage's pre-existing limitations is required.
- The date the qualified beneficiary becomes entitled to Medicare while enrolled under COBRA

COBRA Election Period

- Once the qualifying event notification has been sent, each qualified beneficiary has a period of time in which to make the decision to elect COBRA continuation coverage.
 - During this period, an employer cannot take any action to hurry an election or a waiver of COBRA coverage.
 - The beneficiary has 60 days after the date of loss of coverage or the date the notification of COBRA rights is sent to make a decision whether to continue coverage under COBRA.
 - An election is deemed made on the date postmarked on the NOE that is sent to EIP or to the local subdivision.
- If a qualified beneficiary signs a waiver of COBRA coverage, the waiver can still be revoked at any time during the 60-day election period.
- Qualified beneficiaries, who are enrolled under COBRA, must continue with the same health carrier unless they move outside an HMO/POS service area. (Exception: beneficiaries may change from the Standard to Economy SHP.)

45-Day Premium Payment Period

COBRA premiums must be paid for the period of time from the loss of coverage to the date of election.

- **In order to activate COBRA coverage immediately so benefits will be payable, premium payment must accompany the COBRA NOE.** (Exception: Local subdivisions collect the premium payment before submitting the COBRA NOE to EIP.)
- The qualified beneficiary is allowed a 45-day period, from the date of election to pay this retroactive premium and any prospective premiums that come due during the first 45 days.
- If the premium is not paid, COBRA coverage can be terminated retroactively.

Administrative Fee for Local Subdivisions

EIP charges local subdivision employers a \$3 per month administrative fee for COBRA subscribers. Refer to the Accounting, Billing and Reports section of the manual for additional information.

Benefit Changes

Qualified beneficiaries are entitled to the same rights as active employees. These rights include participating in enrollment periods, changing plans, special eligibility situations, and adding newly acquired dependents.

Open Enrollment

Qualified beneficiaries under COBRA are eligible to elect individual health plans if desired, but they must complete separate NOEs. For example, one qualified beneficiary may choose the SHP while another chooses an HMO/POS.

COBRA Rules for the MoneyPlu\$ Medical Spending Account

IRS Code Section 125 allows for the continuation of the Medical Spending Account under COBRA. **The Medical Flexible Spending Account can only be continued for the remainder of the plan year; employees may not re-enroll.**

- The subscriber must be enrolled in the Medical Spending Account at termination.
- The subscriber elects to maintain continuous payments on an after-tax basis for the Medical Spending Account.
- **The administrative fee for COBRA continuation of the Medical Spending Account can only be two percent of the monthly amount in all cases, except disability.** The fee is calculated and included with the payment.
- The employee must complete the regular MoneyPlu\$ enrollment form and write COBRA across the top of the form.
- The Medical Spending Account application is sent to EIP.
 - EIP will verify that the individual is eligible for health coverage in order to retain the Medical Spending Account and will coordinate with FBMC and the employee regarding the monthly deduction amount.
 - The completed form is then sent to FBMC. FBMC will process the application and send a coupon booklet to the employee.

Refer to the Active Subscribers section of the manual for more information regarding MoneyPlu\$ procedures.